

UNIT 48 SUBCONTRACTING REQUIREMENTS

(Blueprint 47.1 — 4/27/91)

_____ has satisfactorily completed on-the-job training in the Part or Parts of this Unit specified below.

Certification for Part A: Establishing Subcontracting Requirements

Duty Incorporate subcontracting requirements in the solicitation.

Conditions Given purchase requests, acquisition histories, and market data.

Overall Standard(s) Incorporate the applicable provisions and clauses.

Evaluator Name _____
Title _____
Date _____

Certification for Part B: Evaluating Subcontracting Plans

Duty Approve or disapprove subcontracting plans for inclusion in the contract.

Conditions Given the solicitation and a proposed subcontracting plan.

Overall Standard(s) Approved subcontracting plans must provide the maximum practicable opportunities for small, small/disadvantaged, and women-owned businesses to obtain subcontracts.

Evaluator Name _____
Title _____
Date _____

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(Blueprint 47.1 — 4/1/91)

Certification for Part C: Make-Or-Buy Programs

Duty	Negotiate a make-or-buy program.
Conditions	Given a submitted make-or-buy program and supporting data, acquisition histories, and market data.
Overall Standard(s)	In preparing prenegotiation positions on the submitted program, account for all factors listed in FAR 15.706(d). Correctly determine whether the negotiated program must be incorporated in the contract.
Evaluator	Name _____
	Title _____
	Date _____

Goals For Subcontracting With Women Owned Small Business Concerns

☞ The FAR requires contracting officers to negotiate a separate percentage goal in subcontracting plans for women-owned small business concerns. Contractors are liable for liquidated damages if they fail to attain those goals on the same basis and under the same conditions that they are liable for failing to attain goals for subcontracting with small disadvantaged small businesses and small businesses generally. Contracting officers also may negotiate monetary incentives for exceeding goals for subcontracting with women-owned small business concerns pursuant to §52.219-10. [§19.702, §19.704, §19.708, §19.9, §26.104, §42.302, §52.219-9, §52.219-10, and §52.219-13, FAC 90-32, Case 94-780,]

UNIT 48 SUBCONTRACTING REQUIREMENTS

DOCUMENTATION OF OJT ASSIGNMENT(S)	
Description of Assignment:	
Evaluation:	
Completion Date:	

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As needed, insert additional pages to record OJT assignments.

UNIT 48 SUBCONTRACTING REQUIREMENTS

Policies

<i>FAR</i>	<i>Agency Suppl.</i>	<i>Subject</i>
15.7		Make-or-buy programs.
19.7		Subcontracting with small business and small disadvantaged business concerns.
19.9		Contracting opportunities for women-owned small businesses.
26.1		Indian incentive program.
52.219-8 through 219-10		Small business subcontracting requirements.
52.219-13		Utilization of women-owned small businesses.
52.226-1		Indian incentive program.

Other KSA's

1. Knowledge of sources of information on markets and market research techniques to determine realistic small business and small disadvantaged business subcontracting goals.
2. Knowledge of the definition of “woman-owned business”.

☞ The FAR at 19.001 includes a new definition for the term “*Women-owned small business concern*” —

“... a small business concern (i) which is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and (ii) whose management and daily business operations are controlled by one or more women”.


This definition also appears in the provision at FAR 52.219-1, “Small Business Program Representations”, §52.219-8, “Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns”, and at FAR 52.212-3, “Offeror Representations And Certifications - Commercial Items”. [FAC 90-32, Case 94-780]

Other Policies and References (Annotate As Necessary):

UNIT 48 SUBCONTRACTING REQUIREMENTS

Part A: Establishing Subcontracting Requirements

<p>1. Incorporate requirements in the solicitation and resulting contract to subcontract with:</p> <ul style="list-style-type: none"> • Small Business Concerns and Small Disadvantaged Business Concerns under the clause at 52.219-8. • Women-Owned Small Businesses under the clause at 52.219-13. 	<p>A1. Incorporate these clauses unless the contract:</p> <ul style="list-style-type: none"> • Will not exceed SAT? • Will be performed (including all related subcontracts) entirely outside the United States, its territories and possessions, and Puerto Rico, or • Is for personal services.
<p>2. Incorporate a requirement in the solicitation and resulting contract for a Small Business and Small Disadvantaged Business Subcontracting Plan.</p>	<p>A2. Only require a subcontracting plan when the contract:</p> <ul style="list-style-type: none"> • Offers subcontracting possibilities, • Is expected to exceed \$500,000. • Includes the clause at 52.219-8, • Is not being accomplished through the 8(a) program, and • The offeror is not a small business. <p>Determinations about subcontracting possibilities and dollar thresholds should conform to the policies in FAR 19.705-2. If a subcontracting plan is to be required, provide the SBA resident procurement center representative time to review the solicitation and submit advisory findings before issuance.</p>
<p>3 If a subcontracting plan is required, also incorporate the clause at 52.226-1 (Utilization of Indian Organizations and Indian-Owned Economic Enterprises).</p>	<p>A3 In non-Defense agencies, incorporate the clause only if:</p> <ul style="list-style-type: none"> • Subcontracting possibilities exist for Indian organizations or Indian-owned economic enterprises, and • Funds are available for equitable adjustments under the clause.


 The fact that a firm is a “labor surplus area concern” NO LONGER MATTERS when performing other functions and tasks, such as the following. [FAC 90-32, Case 94-780]

- *Make-or-Buy Programs* — Factors to consider in evaluating proposed programs under §15.705(b) and 706(d)(4).
- *Subcontracting Plans* under FAR Subpart 20.3.

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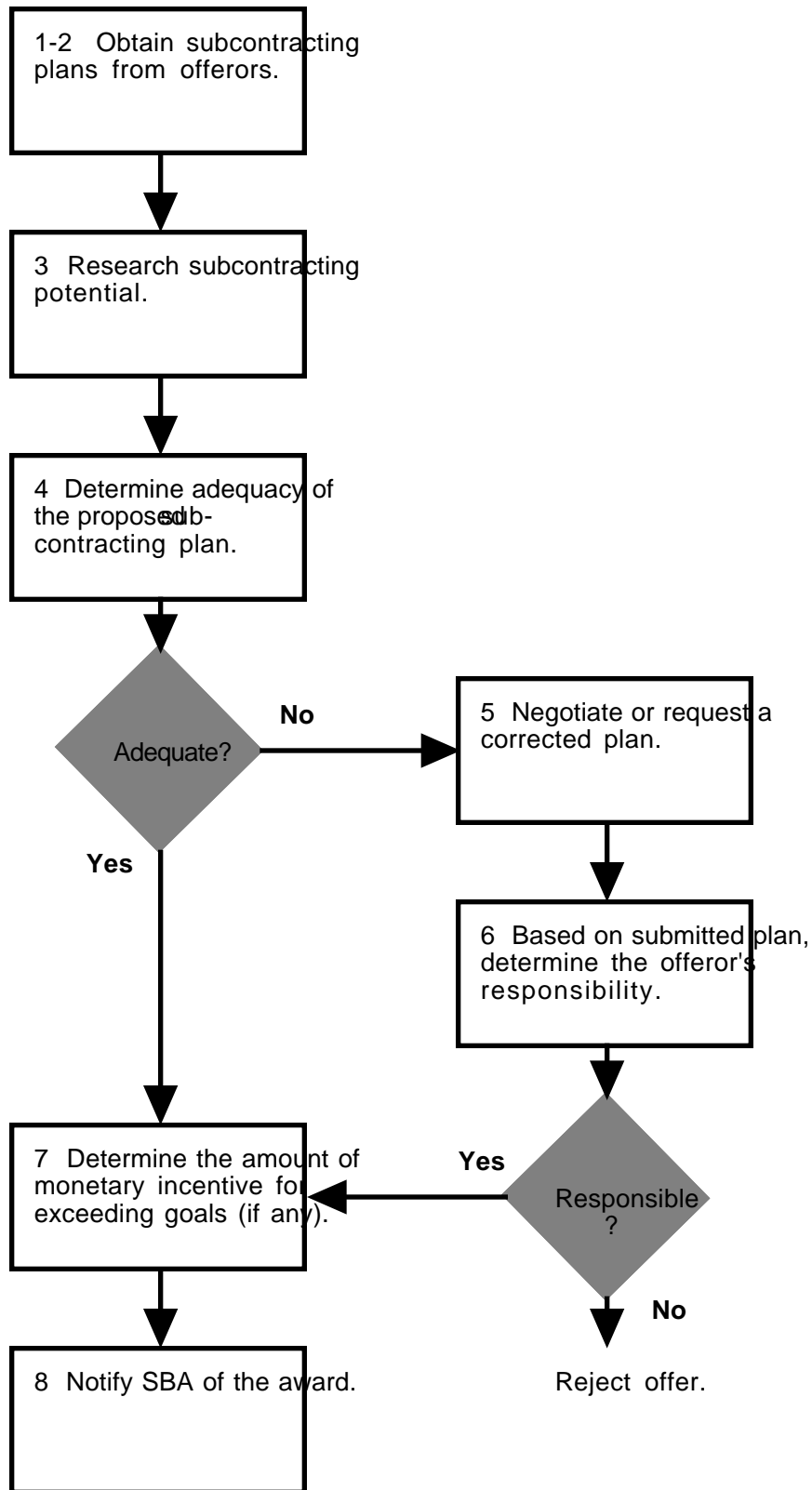
Part A: Establishing Subcontracting Requirements

<p>4. Incorporate a requirement in the solicitation for a proposed make-or-buy program.</p> <p>Include:</p> <ul style="list-style-type: none">• A statement that the program and required supporting information must accompany the offer.• Factors for evaluating the proposed program (e.g., capability, capacity, availability of small business concerns and woman owned small business concerns for subcontracting, delivery or performance schedules, control of technical and schedule interfaces, proprietary processes, technical superiority or exclusiveness, and technical risks involved.)• Types of information required to support the proposed make-or-buy decisions for each major item or work effort, including the identification of proposed subcontractors, if known, and their location and size status (see also Subpart 19.7 for subcontracting plan requirements).	<p>A4. Require prospective contractors to submit make-or-buy programs for all negotiated acquisitions whose estimated value is \$5 million or more, except when the proposed contract—</p> <ul style="list-style-type: none">• Is for R&D, with no significant follow-on production under the same contract;• Is exempt from requirements for certified cost and pricing data; or• Only involves only non-complex work. <p>Also require prospective contractors to submit make-or-buy programs for negotiated acquisitions whose estimated value is under \$5 million if that information is necessary.</p>
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 When performing the **following** functions, the FAR requires contracting officers to separately consider the interests of women-owned small business concerns (kindred to the consideration provided to the interests of small disadvantaged business concerns and to small business concerns generally). [FAC 90-32, Case 94-780]

- *Make-or-Buy Programs* — Factors to consider in evaluating proposed programs under §15.705(b) and 706(d)(4).

Evaluating Subcontracting Plans



UNIT 48 SUBCONTRACTING REQUIREMENTS

Part B: Evaluating Subcontracting Plans

Tasks

Related Standards

<p>1. Request the subcontracting plan from the offeror.</p> <ul style="list-style-type: none">• May be either a plan for this individual procurement or a Commercial Product Plan (i.e., umbrella company-wide or division-wide) for a number of contracts.• If it is a Commercial Product Plan, make sure it applies to this particular contract (e.g., right time period).• May incorporate by referencing an approved plant-wide or division-wide master subcontracting plan, with individual goals for this specific contract.	<p>B1. Request and obtain subcontracting plans within an established timeframe but before award. Provide a copy to the SBA resident procurement center representative of the plan, supporting documentation, and the rest of the contract.</p>
<p>2. Provide a copy of the contract to the SBA resident procurement center representative, including the subcontracting plan and supporting documentation.</p>	
<p>3. Conduct factfinding on the subcontracting plan (per Unit 5 and with help from the SBA resident procurement center representative and/or the Small Business Specialist).</p>	<p>B3. Obtain data on such matters as:</p> <ul style="list-style-type: none">• The offeror's past performance in awarding subcontracts for the same or similar products or services to small business concerns, woman owned small business concerns, and small disadvantaged concerns.• The offeror's overall past performance in awarding subcontracts to small business concerns, woman owned small business concerns, and small disadvantaged concerns.• The offeror's make or buy program, in terms of identifying potential conflicts with the proposed subcontracting plan.• Subcontracting potential, given the offeror's make or buy policies and programs, the nature of the products or services to be subcontracted, the known availability of small and small disadvantaged business concerns in the area where the work is to be performed, and the offeror's longstanding contractual relationships with suppliers.

UNIT 48 SUBCONTRACTING REQUIREMENTS

Part B: Evaluating Subcontracting Plans

Tasks

Related Standards

<p>4. With assistance from the SBA resident procurement center representative and/or the Small Business Specialist, determine whether the plan is adequate.</p> <p>Criteria for evaluating the offeror's goals and plans:</p> <ul style="list-style-type: none"> • Completeness, in terms of the requirements in FAR 19.704. • Attainability, given— <ul style="list-style-type: none"> - Subcontracting opportunities. - Pool of eligible subcontractors. - Actual performance by such contractor against prior plans. - The relative success of methods the contractor intends to use to meet the goals and requirements of the plan, as evidenced by records maintained by the contractor. • Consistency with "make-or-buy" policy. 	<p>B4. Check the submitted plan against the six elements, information, goals and assurances required by FAR 19.704. Do not accept zero goals. Set subcontracting goals at a level that the parties reasonable expect can result from good faith efforts by the offeror to use small business concerns, women owned small business concerns, and small disadvantaged contractors to the maximum practicable extent. Commit the offeror in writing to specific steps that, if taken, would represent a good faith effort. Do not negotiate a goal upwards if it is apparent that a higher goal will significantly increase the Government's cost or seriously impede the attainment of acquisition objectives.</p>
<p>5. Advise the contractor if any inadequacies in the subcontracting plan.</p> <ul style="list-style-type: none"> • When awarding through negotiations, negotiate improvements. • When awarding through sealed bidding and the bidder's plan does not cover each of the required elements, advise the bidder of deficiencies and invite it to submit a corrected plan by a specific date. 	<p>B5. Accept no changes in the plan that would affect a Best and Final Price or bid price. Advise the offeror of available sources of information on potential small and small disadvantaged business subcontractors, as well as any specific concerns known to be potential subcontractors.</p>
<p>6. Based on the plan as submitted, determine whether the offeror is responsible.</p>	<p>B6. Find the offeror nonresponsible if:</p> <ul style="list-style-type: none"> • In sealed bidding, the corrected plan is not submitted on time, • The plan is not adequate, or • If the offeror's past record of compliance with subcontracting plans, as a factor in determining responsibility, tips the scales against the offeror.

UNIT 48 SUBCONTRACTING REQUIREMENTS

Part B: Evaluating Subcontracting Plans

Tasks	Related Standards
7. Determine whether to establish a monetary incentive for exceeding subcontracting goals and negotiate the amount of the incentive (expressed as a percentage of the dollars in excess of each goal in the plan, to a maximum of 10%).	B7. Establish a monetary incentive when: <ul style="list-style-type: none">Contracting by negotiation,A subcontracting plan is required,Subcontracting goals are realistic,The incentive is necessary to increase subcontracting opportunities,The incentive is commensurate with efficient and economical contract performance, andThe monetary amount is commensurate with additional investments (i.e., monies that the firm would not otherwise have spent for this purpose) necessary to expand the contractor's supplier base of small and small/disadvantaged subcontractors.
8. Notify SBA of the award. <ul style="list-style-type: none">Send a copy of the award document to the Assistant Regional Administrator for Procurement Assistance in the SBA region where the contract will be performed.Forward a copy of the plan and any associated approvals to the Assistant Regional Administrator for Procurement Assistance in the SBA region where the contractor's headquarters is located, if any company-wide plans were received from offerors of commercial products.Forward a copy of the subcontracting plan to the assigned SBA resident procurement center representative.	

Note—To monitor and enforce compliance with the subcontracting plan, see Unit 58, Part C.

UNIT 48 SUBCONTRACTING REQUIREMENTS

Part C: Make-Or-Buy Programs

Tasks

Related Standards

<p>1. Determine whether or not to require the submission of a make or buy program.</p>	<p>C1. Require a make or buy program in all negotiated acquisitions whose estimated value is \$5 million or more, except when the proposed contract is—</p> <ul style="list-style-type: none"> • For research or development and—if prototypes or hardware are involved—no significant follow-on production under the same contract is anticipated; • Exempt from the requirement for certified cost or pricing data (per Unit 38); or • Only for non-complex work. <p>For cost-based negotiated acquisitions under \$5 million, only consider a separate "make-or-buy" submission per FAR 15.704 if the work would entail a high stakes "make-or-buy" decision by the contractor. Otherwise, review the contractor's "make or buy" assumptions as part of the cost analysis (per Unit 40).</p>
<p>2. Incorporate a provision in the RFP requiring submission of a make-or-buy program.</p>	<p>C2. Only require information on major items or tasks per FAR 15.704. Also provide notice:</p> <ul style="list-style-type: none"> • That the program and required supporting information must accompany the offer. • Of factors to be used in evaluating the proposed program (e.g., capability, capacity, utilization of small businesses, delivery or performance schedules, control of technical and schedule interfaces, proprietary processes, technical superiority or exclusiveness, and technical risks involved). • Of the specific data that must be part of the submission. Examples: <ul style="list-style-type: none"> - Major items and tasks that are “must make” and why. - Major items and tasks that are “must buy” and why. - Major items and tasks that the firm “can either make or buy” and the firm's preference for each such item or task. - For each "make" item or task, the name and location of the proposed plant or division. - For each "buy" item or task, the identity of proposed subcontractors, if known, and their location and size status.

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Part C: Make-Or-Buy Programs

Tasks	Related Standards
3. Prepare prenegotiation positions on the proposed make or buy program as part of the cost analysis (Unit 40) and as part of the analysis of the proposed subcontracting plan (if any).	<p>C3. Give primary consideration to the effect of the proposed make-or-buy program on price, quality, delivery, and performance, including technical or financial risk involved. Also consider:</p> <ul style="list-style-type: none">• The contractor's justification for performing the work in a way that differs significantly from its normal operations.• Whether the contractor's recommended program requires Government investment in new or other facilities (an additional cost not reflected in the contract price).• The impact of the contractor's projected plant work loading on indirect costs.• The potential for greater utilization of small business and small disadvantaged business concerns.• The contractor's make-or-buy history for that item or task.• The scope of proposed subcontracts, including the type and level of technical effort involved.• Other factors such as future requirements, engineering, tooling, starting load costs, market conditions, technical superiority, and the availability of personnel and materials.
4. Negotiate an agreement on the make-or-buy program.	<p>C4. Unless the contractor can demonstrate that "buying" would result in a higher total cost to the Government, do not agree to proposed "make items" which are:</p> <ul style="list-style-type: none">• Not regularly manufactured or provided by the contractor and are available—quality, quantity, delivery, and other essential factors considered—from another firm, or• Available—quality, quantity, delivery, and other essential factors considered—from another firm at lower prices.

UNIT 48 SUBCONTRACTING REQUIREMENTS

Part C: Make-Or-Buy Programs

Tasks

Related Standards

<p>5. Determine whether to incorporate an agreement on a make or buy program in the contract.</p>	<p>C5. Incorporate the agreement in contracts for major systems or their subsystems or components, regardless of contract type. Also incorporate the agreement in cost-reimbursement contracts when technical or cost risks justify Government review and approval of changes or additions to the make-or-buy program.</p> <p>If the make or buy program is incorporated, add the clause (if not already in the RFP) at 52.215-21, "Changes or Additions to Make-or-Buy Program."</p>
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